

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LAMAR BROOKS,  
Plaintiff,

vs.

ARRIZOLA, et al.,  
Defendants.

No. 1:20-cv-00476-NONE-GSA-PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS IN FULL

(Doc. No. 16.)

ORDER THAT THIS ACTION PROCEED  
ONLY AGAINST DEFENDANT C/O  
ARRIZOLA FOR USE OF EXCESSIVE  
FORCE IN VIOLATION OF THE EIGHTH  
AMENDMENT, AND DISMISSING ALL  
OTHER CLAIMS AND DEFENDANTS

(Doc. No. 1.)

Plaintiff Lamar Brooks is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B).

On September 24, 2021, the assigned magistrate judge issued findings and recommendations, recommending that this action proceed only on plaintiff's excessive force claims against defendant C/O Arrizola, and that all remaining claims and defendants be dismissed from this action based on plaintiff's failure to state a claim. (Doc. No. 16.) The pending findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days from the date of service. (*Id.*) To

1 date, no objections to the findings and recommendations have been filed with the court, and the  
2 time in which to do so has now passed.

3 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted  
4 a *de novo* review of the case. Having carefully reviewed the entire file, the court finds the  
5 findings and recommendations to be supported by the record and by proper analysis.

6 Accordingly,

- 7 1. The findings and recommendations issued by the magistrate judge on September  
8 24, 2021 (Doc. No. 16), are adopted in full;
- 9 2. This action now proceeds only with plaintiff's claims against defendant C/O  
10 Arrizola for use of excessive force in violation of the Eighth Amendment;
- 11 3. All remaining claims and defendants are dismissed from this action;
- 12 4. Plaintiff's claims for inadequate medical care, improper prison appeals process,  
13 cover-up of wrongdoing, and state law claims are dismissed from this action  
14 based on Plaintiff's failure to state any claims upon which relief may be granted;
- 15 5. Plaintiff's state law claims are dismissed, without prejudice to bringing the  
16 claims in state court;
- 17 6. Defendants Sergeant Stane and Lieutenant Fitzpatrick are dismissed from this  
18 action based on plaintiff's failure to state any claims against them upon which  
19 relief may be granted; and
- 20 7. This case is referred back to the magistrate judge for further proceedings,  
21 including initiation of service of process.

22  
23 IT IS SO ORDERED.

24 Dated: November 1, 2021

25   
26 UNITED STATES DISTRICT JUDGE  
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